# South Carolina Board of Economic Advisors
# Statement of Estimated State Revenue Impact

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| **Date:** | June 27, 2007 | (As adopted June 21, 2007 by the Conference Committee) |
| **Bill Number:** | H.B. 3749 | |
| **Authors:** | W.D. Smith, Mitchell, Kelly, Littlejohn, *et. al.* | |

**Committee Requesting Impact:** Conference Committee

**Bill Summary**
To amend Section 12-10-80, as amended, Code of Laws of South Carolina, 1976, relating to job development credits, so as to allow a taxpayer who qualifies for the job development credit and who is located in a multi-county business or industrial park to receive a credit equal to the amount designated to the county with the lowest development status of the counties containing the park in certain circumstances.

**REVENUE IMPACT [1/]**
This bill, as amended, is expected to reduce General Fund income tax revenue by an estimated $5,500,000 in FY2007-08 and an estimated $1,443,750 in FY2009-10. Sales tax revenue would be decreased by an estimated $3,900,000 in FY2007-08. Of that total, $2,600,000 would be a decrease in General Fund sales tax revenue, $650,000 would be a decrease in EIA Funds, and $650,000 would be a decrease in Homestead Exemption Funds. In total, this bill, as amended, is expected to reduce General Fund revenue by an estimated $8,150,000 in FY2007-08 and $1,443,750 in FY2009-10.

**Explanation of Conference Committee (June 21, 2007) – By the Conference Committee**
The Conference Committee deleted the amendments added by the House on June 7, 2007. The following sections adopted in the Conference Report are expected to have an impact on General Fund revenue in FY2007-08.

**Section 5.** This bill provides an individual income tax credit equal to 5% of the taxpayer's qualified research expenditures made in South Carolina. Corporate income taxpayers already may claim this credit against their corporate income tax liability or their license fee liability. This bill would expand the use of the credit to individual income taxpayers. This proposed South Carolina tax credit is based on the federal income tax credit contained in Section 41 of the Internal Revenue Code and is equal to 20% of a taxpayer's increased qualified research expenditures over their average base research expenditures during the past four years. Qualified research expenses are limited to research undertaken to discover information that is technological in nature, and its application must be intended for use in developing a new or improved business component of the taxpayer. The research must relate to new or improved function, performance, reliability, or quality. Market research and normal product testing costs are not research expenditures. This federal credit is available for amounts expended through December 31, 2007 and sunsets after that date unless extended by Congress. Since the proposed state credit and the federal credit are identical except for the tax credit percentage, federal tax credit estimates can be used to calculate the impact on South Carolina income tax revenue from the proposed tax credit. The Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2005-2009* estimates that the qualified research expenditures tax credit will reduce federal individual income tax revenue by an average of $100 million. Applying South Carolina's 1% ratio of total population and personal income to these U.S. totals suggests that $1 million of the federal tax credit is from South Carolina taxpayers. Since the proposed South Carolina tax credit is 5% of qualified research expenses, rather than the 20% federal tax credit, we expect that this bill would reduce General Fund individual income tax revenue by

$250,000 in FY2007-08.

**Section 7.** This amendment would add language from H.B.3848 and H.B.3896, as amended, to the bill. This section amends the fee-in-lieu of property taxes statutes. Because these changes would be made by the respective county councils, these changes are not expected to impact adversely local revenues in FY2007-08.

**Section 8.** This section would amend Section 12-6-3360(A) to allow taxpayers that operate retail facilities and service-related industries to qualify for an annual jobs tax credit in counties designated as under-developed and not traversed by an interstate highway. Currently, taxpayers that operate retail facilities and service-related industries may qualify for an annual jobs tax credit in counties designated as distressed or least-developed. According to the Department of Revenue, during tax year 2005 companies claimed $51,444,949 of jobs tax credits for new full-time jobs created. In calendar year 2005, the latest year that county level data is available, 3,392 new retail and service-related jobs were created in under-developed counties in the State. Pursuant to Section 12-6-3360(B), the under-developed counties for calendar year 2007 are Calhoun, Chester, Colleton, Darlington, Georgetown, Jasper, Laurens, Oconee, Pickens, Saluda, and Sumter counties. Only Georgetown, Pickens, and Saluda counties are not traversed by an interstate highway. In these three counties, 825 new retail and service-related jobs were created. A jobs tax credits is allowed for five years beginning in year two after the creation of the job for each new full-time job created and maintained. Multiplying 825 new full-time jobs by a jobs tax credit of $1,750 per new job in these three under-developed counties, yields a reduction of General Fund individual and corporate income tax revenue of an estimated $1,443,750 in FY2009-10.

**Section 16.** Currently, small taxpayers with less than $1,000,000 in gross income and taxable incomes less than $100,000 may elect to treat 50% of income as not related to personal services. This bill proposes to modify this safe harbor provision to delete the less than $1,000,000 in gross income limitation. This deletion along with the exclusion of capital gains and losses may allow more taxpayers to become eligible for the election. However, due to the anticipated complexity of the determination of personal service income, which these small taxpayers will have to determine only for state tax purposes, we expect that this election by taxpayers will increase some taxpayers' income tax liability and decrease others. We expect that the net result will be revenue neutral.

**Section 62.** This section would add an appropriately numbered item to Section 12-36-2120 that creates a sales and use tax exemption for a taxpayer that constructs and operates a qualifying amusement park or theme park. The taxpayer is required to make a capital investment of a least $250,000,000 at a single site and create 250 full-time jobs and 500 part-time or seasonal jobs. The eligible taxpayer must meet the required investment and job creation requirements over a five-year period. According to information provided by the developer of an amusement park in Horry County, an estimated $65,000,000 of capital investment in amusement rides and park venues, net of land acquisition costs, is expected to be under development in FY2007-08. A sales and use tax exemption on the amusement rides and venues would reduce sales and use tax revenue by an estimated $3,900,000 in FY2007-08. Of this amount, General Fund sales and use tax revenue would be reduced by an estimated $2,600,000, Education Improvement Act (EIA) funds would be reduced by an estimated $650,000, and the Homestead Exemption Trust Fund would be reduced by an estimated $650,000 in FY2007-08.

**Section 63.** This section amends Section 12-14-80 to amend the criteria to allow a manufacturer to claim an economic impact zone credit pursuant to Section 12-14-60 for capital investments placed in service outside of an economic impact zone after June 30, 2007. The manufacturer must meet the following criteria to qualify - have a facility in at least one economic impact zone; be established in an activity listed under the NAICS code 326; employ at least 5,000 full-time workers in this State and have capital investment of not less than $2,000,000,000; and has invested $500,000,000 in this State between January 1, 2006 and July 1, 2011. Multiplying a capital investment of $500,000,000 by 20 percent and applying an economic impact zone credit of five percent yields a reduction in General Fund corporate and individual income tax revenue of an estimated $5,000,000 in FY2007-08.

**Section 64.** This section allows the governing body of a county by ordinance to exempt 42.75% of the fair market value of a watercraft and its motor from property taxes. This effectively changes the assessment ratio on boats and motors from 10.5% to 6.0%. We estimate total property tax collections in South Carolina on boats and motors to be approximately $38,500,000 for FY 2007-08. Exempting 42.75% of the fair market value of boats and motors will reduce current local property tax collections on boats and motors by $16,500,000 in FY2008-09 if all counties adopt an ordinance. Counties are only expected to pass an ordinance if they can encourage enough boats to locate in their counties to offset the lower assessment ratio and maintain their current revenue stream. This section would not impact state General Fund revenue in FY2007-08 or FY2008-09.

**Section 65.** This amendment modifying §12-6-590(B) would decrease General Fund income tax revenue by $300,000 in FY2007-08. This amendment would allow Subchapter S shareholders of a bank, a tax credit that effectively excludes the shareholders' prorata share of the net items of income and expense from the bank. This proposed credit would help resolve a potential situation where the net income earned by banks that elect Sub S tax status is subject to the bank tax and then additional income tax for the amounts passed through to the Sub S shareholders. The shareholders would remit taxes based on the rates for active or business income of pass-through businesses pursuant to §12-6-545 (maximum of 5% for tax years after 2008).

**Section 68.** This section creates a separate and distinct fund in the State Treasury styled the "South Carolina Renewable Energy Infrastructure Development Fund". The revenues of the fund must be distributed by the South Carolina Renewable Energy Revolving Loan Program and the South Carolina Renewable Energy Grant Program. Any unexpended funds received by the Department of Revenue from Proviso 73.17 of the FY2006-07 Appropriation Act and carried forward must by disbursed to these entities for the purpose of making alternative fuel purchases incentive payments and to the South Carolina Renewable Energy Infrastructure Development Fund. This section is not expected to impact General Fund revenue in FY2007-08.

**Explanation of Actions (June 7, 2007) – By the Senate**
The Senate non-concurred with the House amendments to the Senate amendment and a Conference Committee to H.B.3749 was appointed.

**Explanation of Amendment (June 7, 2007) – By the House**
**Section 69.** This section would add the language from H.B.3576. This section would exempt counties that collect more than $900 in accommodations tax revenue in one fiscal year from the Sunday Blue Law provisions contained in Chapter 1 of Title 53. This would effectively repeal statewide the prohibition on Sunday retail sales on items such as clothing, house wares, appliances, and home and office furnishings. This proposal would not affect existing Sunday alcoholic liquor restrictions. We expect that the repeal would generate additional taxable sales in the counties that border North

Carolina and Georgia, thereby increasing state sales tax revenue. We anticipate that all retail establishments in these border counties will increase their hours of operation by an average of 2 hours per week. We reduced the additional Sunday sales for a change in consumer behavior as current shoppers purchase more on Saturdays or delay purchases until Mondays in counties that prohibit Sunday sales. The estimated increase in taxable sales does not include sales that are already exempt from the Sunday sales prohibition (mostly food items). Based on this analysis, we expect that this bill would increase sales tax revenue by $1,128,000 in FY 2007-08. Of this total, $752,000 would be an increase in General Fund sales tax revenue, $188,000 would be an increase in EIA Funds, and $188,000 would be an increase in the Homestead Exemption Trust Fund.

**Section 72.** This section would add Section 12-6-3383 to allow a tax credit of $1,000 per home to builders and developers who construct homes built to Earthcraft or Leadership in Energy and Environmental Design (LEED) standards in county approved subdivisions or planned unit developments. According to representatives with Southface Energy institute, administrator of the Earthcraft House Program, 132 homes have been constructed to Earthcraft standards in South Carolina over the past two years, and it is estimated that roughly one-half of these homes were constructed in county approved subdivisions or planned unit developments. It is therefore estimated that approximately 33 Earthcraft certified homes will be built in planned developments in FY2007-08. Multiplying 33 homes by a $1,000 tax credit per home equals a reduction of General Fund income tax revenue of an estimated $33,000 in FY2007-08. According to representatives with the South Carolina chapter of the U.S. Green Building Council, administrators of the LEED programs, the LEED program for homes is in the pilot phase. Homes meeting LEED standards therefore have yet to be built in South Carolina.

**Explanation of Amendment (June 6, 2007) – By the Senate**
This amendment deleted the section that would have created a sales and use tax exemption for a taxpayer that constructs and operates a qualifying amusement park or theme park.

**Section 65.** This section allows the governing body of a county by ordinance to exempt 42.75% of the fair market value of a watercraft and its motor from property taxes. This effectively changes the assessment ratio on boats and motors from 10.5% to 6.0%. We estimate total property tax collections in South Carolina on boats and motors to be approximately $38,500,000 for FY 2007-08. Exempting 42.75% of the fair market value of boats and motors will reduce current local property tax collections on boats and motors by $16,500,000 in FY 2007-08 if all counties adopt an ordinance. Counties are only expected to pass an ordinance if they can encourage enough boats to locate in their counties to offset the lower assessment ratio and maintain their current revenue stream. This section would not impact state General Fund revenue in FY2007-08.

**Section 66.** This amendment modifying §12-6-590(B) would decrease General Fund income tax revenue by $300,000 in FY2007-08. This amendment would allow Subchapter S shareholders of a bank, a tax credit that effectively excludes the shareholders' prorata share of the net items of income and expense from the bank. This proposed credit would help resolve a potential situation where the net income earned by banks that elect Sub S tax status is subject to the bank tax and then additional income tax for the amounts passed through to the Sub S shareholders. The shareholders would remit taxes based on the rates for active or business income of pass-through businesses pursuant to §12-6-545 (maximum of 5% for tax years after 2008).

**Explanation of Amendment (May 31, 2007) – By the Senate**

This amendment would add the language from H.B.3372 and S.B.91, as amended, to the bill. The following sections of the amendment are expected to have an impact on General Fund revenue in FY2007-08.

**Section 17.** Currently, small taxpayers with less than $1,000,000 in gross income and taxable incomes less than $100,000 may elect to treat 50% of income as not related to personal services. This bill proposes to modify this safe harbor provision to delete the less than $1,000,000 in gross income limitation. This deletion along with the exclusion of capital gains and losses may allow more taxpayers to become eligible for the election. However, due to the anticipated complexity of the determination of personal service income, which these small taxpayers will have to determine only for state tax purposes, we expect that this election by taxpayers will increase some taxpayers' income tax liability and decrease others. We expect that the net result will be revenue neutral.

**Section 65.** This section amends Section 12-14-80 to amend the criteria to allow a manufacturer to claim an economic impact zone credit pursuant to Section 12-14-60 for capital investments placed in service outside of an economic impact zone after June 30, 2007. The manufacturer must meet the following criteria to qualify - have a facility in at least one economic impact zone; be established in an activity listed under the NAICS code 326; employ at least 5,000 full-time workers in this State and have capital investment of not less than $2,000,000,000; and has invested $500,000,000 in this State between January 1, 2006 and July 1, 2011. Multiplying a capital investment of $500,000,000 by 20 percent and applying an economic impact zone credit of five percent yields a reduction in General Fund corporate and individual income tax revenue of an estimated $5,000,000 in FY2007-08.

**Section 66.** This section would add an appropriately numbered item to Section 12-36-2120 that creates a sales and use tax exemption for a taxpayer that constructs and operates a qualifying amusement park or theme park. The taxpayer is required to make a capital investment of a least $250,000,000 at a single site and create 250 full-time jobs and 500 part-time or seasonal jobs. The eligible taxpayer must meet the required investment and job creation requirements over a five-year period. According to information provided by the developer of an amusement park in Horry County, an estimated $65,000,000 of capital investment in amusement rides and park venues, net of land acquisition costs, is expected to be under development in FY2007-08. A sales and use tax exemption on the amusement rides and venues would reduce sales and use tax revenue by an estimated $3,900,000 in FY2007-08. Of this amount, General Fund sales and use tax revenue would be reduced by an estimated $2,600,000, Education Improvement Act (EIA) funds would be reduced by an estimated $650,000, and the Homestead Exemption Trust Fund would be reduced by an estimated $650,000 in FY2007-08.

**Explanation of Amendment (May 24, 2007) – By the Senate**
This amendment would add the language from S.B.91 to the bill. The following sections of the amendment are expected to have an impact on General Fund revenue in FY2007-08.

**Section 5.** This bill provides an individual income tax credit equal to 5% of the taxpayer's qualified research expenditures made in South Carolina. Corporate income taxpayers already may claim this credit against their corporate income tax liability or their license fee liability. This bill would expand the use of the credit to individual income taxpayers. This proposed South Carolina tax credit is based on the federal income tax credit contained in Section 41 of the Internal Revenue Code and is equal to 20% of a taxpayer's increased qualified research expenditures over their average base research expenditures during the past four years. Qualified research expenses are limited to research undertaken to discover information that is technological in nature, and its application must be intended for use in developing a new or improved business component of the taxpayer. The research must relate to new or improved function, performance, reliability, or quality. Market research and normal product testing costs are not research expenditures. This federal credit is available for amounts expended through December 31, 2007 and sunsets after that date unless extended by Congress. Since the proposed state credit and the federal credit are identical except for the tax credit percentage, federal tax credit estimates can be used to calculate the impact on South Carolina income tax revenue from the proposed tax credit. The Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2005-2009* estimates that the qualified research expenditures tax credit will reduce federal individual income tax revenue by an average of $100 million. Applying South Carolina's 1% ratio of total population and personal income to these U.S. totals suggests that $1 million of the federal tax credit is from South Carolina taxpayers. Since the proposed South Carolina tax credit is 5% of qualified research expenses, rather than the 20% federal tax credit, we expect that this bill would reduce General Fund individual income tax revenue by $250,000 in FY2007-08.

**Section 7.** This amendment would add language from H.B.3848 and H.B.3896, as amended, to the bill. This section amends the fee-in-lieu of property taxes statutes. Because these changes would be made by the respective county councils, these changes are not expected to impact adversely local revenues in FY2007-08.

**Section 8.** This section would amend Section 12-6-3360(A) to allow taxpayers that operate retail facilities and service-related industries to qualify for an annual jobs tax credit in counties designated as under-developed and not traversed by an interstate highway. Currently, taxpayers that operate retail facilities and service-related industries may qualify for an annual jobs tax credit in counties designated as distressed or least-developed. According to the Department of Revenue, during tax year 2005 companies claimed $51,444,949 of jobs tax credits for new full-time jobs created. In calendar year 2005, the latest year that county level data is available, 3,392 new retail and service-related jobs were created in under-developed counties in the State. Pursuant to Section 12-6-3360(B), the under-developed counties for calendar year 2007 are Calhoun, Chester, Colleton, Darlington, Georgetown, Jasper, Laurens, Oconee, Pickens, Saluda, and Sumter counties. Only Georgetown, Pickens, and Saluda counties are not traversed by an interstate highway. In these three counties, 825 new retail and service-related jobs were created. A jobs tax credits is allowed for five years beginning in year two after the creation of the job for each new full-time job created and maintained. Multiplying 825 new full-time jobs by a jobs tax credit of $1,750 per new job in these three under-developed counties, yields a reduction of General Fund individual and corporate income tax revenue of an estimated $1,443,750 in FY2008-09.

**Explanation of Amendment (May 17, 2007) - By the Senate Finance Committee**
**Section 1.** This section is the original bill as filed March 20, 2007. This section is not expected to have an impact on General Fund revenues in FY2007-08.

**Section 2.** This section would amend Section 11-45-30 to amend the South Carolina Venture Capital Act of 2005 removing the term "regulations" from the statute, providing a definition for "interest", and clarifying that out-of-state financial institutions that can prove prior experience in state-based venture capital programs and prior investments in South Carolina or South Carolina-based companies may be considered "lenders" under this provision. This amendment provides technical changes to current law. This amendment, therefore, is not expected to have an impact on General Fund revenues in FY2007-

08.

**Section 3.** This section would accelerate the certification of “extraordinary retail establishments” as major tourism or recreational facilities in order for such establishments to receive entitlement to certain benefits prior to completion. Benefits include the distribution of one-fourth of the general state sales tax collected by the extraordinary retail establishment to the county or municipality in which the establishment is located for use in additional infrastructure improvements and distribution of another one-fourth of the general state sales tax collected to a State Treasurer fund for infrastructure improvement grants. According to representatives with the South Carolina Department of Parks, Recreation, and Tourism, there are currently no “extraordinary retail establishments” in South Carolina. In making the projection of revenues, the expectation is for this trend to continue in the absence of the amendment. Sales tax collected on such establishments and distributed to counties or municipalities and the State Treasurer fund for use in additional infrastructure improvements is therefore not included in the current revenue projection. This amendment, therefore, is not expected to have an impact on General Fund revenues in FY2007-08.

**Explanation of Bill filed March 20, 2007**
This bill would amend Section 12-10-80 allowing a taxpayer that qualifies for job development credits and is located within a multi-county business or industrial park to claim job development credits based upon the lowest job tax credit designation of the counties containing the park if the park is established on a geographical border of adjacent counties and is required to allocate revenues equally among the counties in which it is located. According to representatives from the South Carolina Department of Commerce, there is only one multi-county industrial park that meets the requirements under this provision. Of the two counties in which the multi-county industrial park is located, the county with the lower job tax credit status was designated as “least developed” for tax year 2007, two tiers higher than the designation of the other county in which the multi-county industrial park is located. Also, according to the Department of Commerce, only one firm planning to locate within this multi-county industrial park received approval for job development credits for 43 new jobs at an average wage of $18.03 per hour in 2006. Under current law, each new job would therefore qualify for the maximum job development credits equal to five percent of the gross wages. Although the company has been approved for the job development credits, the associated new jobs have yet to be created. Under the provisions of this bill, the 43 jobs to be created in the qualifying multi-county industrial park during calendar year 2007 would be eligible for an approximate tax credit of $1,875 totaling $80,625 per year. Under current law, seventy percent of the maximum credit would be allocated to the industrial park and thirty percent would be allocated to the Rural Infrastructure Fund. Under the proposed amendment the industrial park would receive one hundred percent of the maximum credit and the Rural Infrastructure Fund would be reduced by $24,188. The Rural Infrastructure Fund is independent of General Fund revenues. This bill, therefore, will have no impact on General Fund revenue in FY2007-08.

/s/ WILLIAM C. GILLESPIE, PH.D.
William C. Gillespie, Ph.D.
Chief Economist

**Analysts:** Husman / Martin

[1/] This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.